

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Donna Casey was an unsuccessful candidate for a seat on the San Francisco Board of Supervisors in the November 3, 1998 general election. Respondent Casey for Supervisor '98 (the "Committee") was a controlled committee of Respondent Donna Casey in that election. Respondent Casey assumed full responsibility for the campaign reporting by Respondent Committee.

This case arose from a San Francisco Ethics Commission audit of Respondent Committee for the period from January 1, 1998 through December 31, 1998. The audit revealed that Respondent Committee failed to adequately disclose expenditures on three of the four campaign statements that it filed. For the period covered by the audit, Respondent Committee received contributions of \$201,285 and made expenditures of \$200,438. The matter was referred to the Fair Political Practices Commission by the San Francisco Ethics Commission for possible enforcement action under the Political Reform Act (the "Act").<sup>1</sup>

For the purposes of this stipulation, Respondents' violations of the Act are stated as follows:

COUNT 1: Respondents failed to disclose 16 expenditures of \$100 or more, totaling \$22,272, on the pre-election campaign statement filed on or about October 5, 1998, for the reporting period July 1, 1998 through September 30, 1998, in violation of section 84211, subdivisions (j)(1)-(4).<sup>2</sup>

COUNT 2: Respondents failed to report the total amount of expenditures made to persons who received \$100 or more, totaling \$22,272, on the pre-election campaign statement filed on or about October 5, 1998, for the reporting period July 1, 1998 through September 30, 1998, in violation of section 84211, subdivision (h).

COUNT 3: Respondents failed to disclose 14 expenditures of \$100 or more, totaling

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<sup>1</sup>The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup>This reference is to the subdivisions of section 84211 as they existed in 1998, at the time of the subject violations. Section 84211 was amended in 2000, and some of its subdivisions were relettered and renumbered. As a convention herein, all references to section 84211 are to its subdivision lettering and numbering at the time of the alleged violations.

\$42,335, on the semi-annual campaign statement filed on or about February 1, 1999, for the reporting period October 18, 1998 through December 31, 1998, in violation of section 84211, subdivisions (j)(1)-(4).

COUNT 4: Respondents failed to report the total amount of expenditures made to persons who received \$100 or more totaling \$42,335, on the semi-annual campaign statement filed on or about February 1, 1999, for the reporting period October 18, 1998 through December 31 1998, in violation of section 84211, subdivision (h).

RESPONDENTS: Donna Casey and Casey for Supervisor '98.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that all contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and so that improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose.

Section 82013, subdivision (a) defines a "committee" to include any person or combination of persons that receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year. A controlled committee is defined in section 82016 as a "committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures." A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee."

One feature of the campaign reporting system, found in section 84200.5, is that for elections held in even numbered years, local candidates and their controlled committees must file pre-election campaign statements in accordance with section 84200.7, subdivision (b). Section 84200.7, subdivision (b) mandates that for elections held in November, a first pre-election statement shall be filed no later than October 5, for the reporting period ending on September 30, and a second pre-election statement shall be filed no later than 12 days before the election, for the reporting period ending 17 days before the election.

In addition to having to file pre-election statements, section 84200, subdivision (a) requires candidates and committees to file semi-annual campaign statements each year, no later than July 31 for the reporting period ending June 30, and no later than January 31 for the reporting period ending December 31.<sup>3</sup> In any semi-annual period in which a committee is required to file pre-election campaign statements, the reporting period covered by the semi-annual campaign statement for that period is shortened from six months to the period between

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<sup>3</sup> Regulation 18116 provides that when a filing deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline is extended to the next business day.

the closing date of the last pre-election statement and the end of the semi-annual period.

Section 84211 prescribes the required contents of campaign statements that must be filed by candidates and committees. Each statement must include the total amount of expenditures made by the candidate or committee to persons who received expenditures of \$100 or more. (Sec. 84211, subd. (h).) For each expenditure of \$100 or more made by a candidate or committee during a reporting period, the campaign statement for that reporting period must provide descriptive information, including: the full name of the person to whom the expenditure was made, the person's street address, the amount of the expenditure, and a brief description of the consideration for which the expenditure was made. (Sec. 84211, subds. (j)(1)-(4).)

A candidate is required to verify to the best of his or her knowledge that the campaign statement of his or her controlled committee is true and complete, and that the committee treasurer has used reasonable diligence in the preparation of the campaign statement. (Sec. 84213; Reg. 18427, subd. (c).) Accordingly, a candidate must ascertain whether the committee treasurer has exercised reasonable diligence in the preparation of the campaign statement; take steps to replace a treasurer who is not exercising diligence in the performance of his or her duties; review with care campaign statements filed by the committee; correct inaccuracies in the campaign statements of which the candidate is aware; and perform with due care any other tasks assumed in connection with raising, spending or recording campaign funds insofar as such tasks relate to the accuracy of the information entered on campaign statements. (Reg. 18427, subds. (c)(1)-(5).)

## **SUMMARY OF THE FACTS**

### **COUNT 1**

Respondents filed a pre-election campaign statement for the reporting period ending on September 30, 1998, on or about October 5, 1998. The campaign statement did not disclose 16 expenditures of \$100 or more that Respondents made during the reporting period. The campaign statement omitted required descriptive information for the 16 expenditures, including: the full name of the person to whom the expenditure was made; the person's street address; the amount of the expenditure; and a brief description of the consideration for which the expenditure was made. The total amount of the expenditures for which this required descriptive information was not disclosed was \$22,271.83. Respondents' failure to report these expenditures and the required descriptive information for each of these expenditures violated section 84211, subdivisions (j)(1)-(4).

### **COUNT 2**

In the same pre-election campaign statement referenced in Count 1 above, Respondents also failed to report the total amount of expenditures made during the reporting period to persons who received expenditures of \$100 or more. The total amount of these expenditures unreported was \$22,271.83. Respondents' failure to report the total amount of expenditures made during the reporting period to persons who received expenditures of \$100 or more violated section 84211,

subdivision (h).

### COUNT 3

Respondents filed a semi-annual campaign statement for the reporting period ending on December 31, 1998, on or about February 1, 1999. The campaign statement did not disclose 14 expenditures of \$100 or more that Respondents made during the reporting period. The campaign statement omitted required descriptive information for the 14 expenditures, including: the full name of the person to whom the expenditure was made; the person's street address; the amount of the expenditure; and a brief description of the consideration for which the expenditure was made. The total amount of the expenditures for which this required descriptive information was not disclosed was \$42,335.36. Respondents' failure to report these expenditures and the required descriptive information for each of these expenditures violated section 84211, subdivisions (j)(1)-(4).

### COUNT 4

In the same semi-annual campaign statement referenced in Count 3 above, Respondents also failed to report the total amount of expenditures made during the reporting period to persons who received expenditures of \$100 or more. The total amount of these expenditures unreported was \$42,335.36. Respondents' failure to report the total amount of expenditures made during the reporting period to persons who received expenditures of \$100 or more violated section 84211, subdivision (h).

### **CONCLUSION**

This matter consists of four counts, which carry a maximum possible administrative penalty of Eight Thousand Dollars (\$8,000).

The typical administrative penalty that has historically been imposed by the Commission for violations of this kind, pursuant to a stipulation, has ranged from \$1,000 to \$2,000 per violation. In this case, the amounts unreported as a percentage of the total expended by Respondents during the reporting periods was substantial. The amount of unreported expenditures for the semi-annual reporting period ending on December 31, 1998, as discussed in Counts 3 and 4 above, comprised 91 % of the total amount of the expenditures made during that reporting period. As such, a penalty at the upper end of the historical penalty range is appropriate, particularly as to Counts 3 and 4. Respondent Casey indicated that the failure to disclose expenditures was based upon a problem with the campaign reporting software used, and that there was no intention to conceal campaign expenditures from the public. Respondent Casey has been cooperative with staff and forthright in acknowledging her failure to adequately review her campaign statements. Respondent Casey has no previous enforcement actions.

Considering all of the factors in this case, the appropriate penalty is Six Thousand Dollars (\$6,000).